

Filed for intro on 02/15/2001
SENATE BILL 1761 By
Kurita

HOUSE BILL 1765
By McMillan

AN ACT to amend Tennessee Code Annotated, Title 62, relative to
body piercing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 38, Part 3, is amended by deleting the part in its entirety effective January 1, 2002, and by substituting instead Sections 2 through 12 of this act as a new part 3.

SECTION 2. As used in this act:

(1) "Antibacterial" means a substance which inhibits and reduces the growth of bacteria.

(2) "Approval" means written approval from the county health department indicating that the body piercing establishment has been inspected and meets all terms of this chapter.

(3) "Body piercing" means the piercing of any part of the body by someone other than a physician licensed under Title 63 who utilizes a needle or other instrument for the purpose of inserting an object into the body for non-

medical purposes; body piercing includes ear piercing except when the ear piercing procedure is performed on the ear with an ear piercing gun.

(4) "Body piercing establishment" means any place whether temporary or permanent, stationary or mobile, wherever situated, where body piercing is performed including any area under the control of the operator.

(5) "Business" means any entity that provides body piercing services for compensation.

(6) "Disinfection" means a process that kills or destroys nearly all disease-producing microorganisms, with the exception of bacterial spores.

(7) "Ear piercing gun" means a mechanical device that pierces the ear by forcing a disposable, single-use stud or solid needle through the ear.

(8) "Operator" means any person, firm, company, corporation or association that owns, controls, operates, conducts or manages a body piercing establishment.

(9) "Patron" means a person requesting and receiving body piercing services or ear piercing services by an ear piercing gun.

(10) "Premises" means the physical location of a body piercing establishment.

(11) "Sterilize" means a process by which all forms of microbial life, including bacteria, viruses, spores, and fungi, are destroyed.

SECTION 3. No person shall perform a body piercing procedure, or ear piercing procedure with an ear piercing gun in a manner that does not meet the standards for appropriate disinfection and sterilization of invasive equipment or parts of equipment used in performing the procedures established by this chapter and the rules adopted under this act.

SECTION 4. To receive approval to offer body piercing services, a business must demonstrate to a board of health the ability to meet the requirements established by this act and

the rules adopted under this act for safe performance of the body piercing procedures, training of the individuals who perform the procedures, and maintenance of records.

No person shall operate a business that offers body piercing services unless the county health department has approved the business pursuant to this act. No person shall perform a body piercing procedure in a way that does not meet the safety and sanitation standards established pursuant to this act.

SECTION 5. A board of health shall conduct at least one (1) inspection of a business prior to approving the business under this act to offer body piercing services. The board may conduct additional inspections as necessary for the approval process. A board of health may inspect an approved business at any time the board considers necessary. In an inspection, a board of health shall be given access to the business' premises and to all records relevant to the inspection.

SECTION 6.

(a) No person shall perform a body piercing procedure, or ear piercing procedure with an ear piercing gun on an individual who is under eighteen (18) years of age unless written consent has been given by the individual's parent, guardian, or custodian in accordance with subsection (b) of this section.

(b) A parent, guardian, or custodian of an individual under age eighteen (18) who desires to give consent to a business to perform on the individual under age eighteen (18) a body piercing procedure, or ear piercing procedure performed with an ear piercing gun shall do all of the following:

(1) Appear in person at the business at the time the procedure is performed;

(2) Sign a document provided by the business that explains the manner in which the procedure will be performed and the methods for proper care of the affected body area following performance of the procedure; and

(3) Produce photo-bearing identification and attest in writing that such individual is the minor's parent, guardian or custodian.

SECTION 7.

(a) (1) Unless consent has been given in accordance with Section 5, no individual who is under age eighteen (18) shall obtain or attempt to obtain a body piercing service, or ear piercing service performed with an ear piercing gun.

(2) No individual shall knowingly show or give false information concerning the individual's name or age.

(b)

(1) No individual shall knowingly show or give any false information as to the name, age, or other identification of an individual who is under age eighteen (18) for the purpose of obtaining for the individual under age eighteen (18) a body piercing service, or ear piercing service performed with an ear piercing gun.

(2) No individual shall impersonate the parent, guardian, or custodian of an individual who is under age eighteen (18) for the purpose of obtaining for the individual under age eighteen (18) a body piercing service, or ear piercing service performed with an ear piercing gun.

SECTION 8. An operator or employee of a business that performs body piercing services, or ear piercing services performed with an ear piercing gun may not be found guilty of a violation of Section 6(a) or any rule in which age is an element of the provisions of the rule, if the court of record finds all of the following:

(1) That the individual obtaining a body piercing service, or ear piercing service performed with an ear piercing gun, at the time of so doing, exhibited to the operator or employee of the body piercing, or ear piercing business a driver's or commercial driver's license showing that the individual was then at least age eighteen (18);

(2) That the operator or employee made a bona fide effort to ascertain the true age of the individual obtaining a body piercing, or ear piercing service by checking the identification presented, at the time of the service, to ascertain that the description on the identification compared with the appearance of the individual and that the identification had not been altered in any way; and

(3) That the operator or employee had reason to believe that the individual obtaining a body piercing, or ear piercing service was at least age eighteen (18).

SECTION 9.

(a) Each operator of a business that offers body piercing services shall do all of the following:

(1) Maintain procedures for ensuring that the individuals who perform body piercing procedures are adequately trained to perform the procedures properly;

(2) Comply with the safety and sanitation requirements for preventing transmission of infectious diseases;

(3) Require the individuals who perform body piercing procedures to disinfect and sterilize all invasive equipment or parts of equipment used in performing the procedures; and

(4) Ensure that weekly tests of the business's heat sterilization devices are performed that indicate whether the devices are killing microorganisms. The operator shall maintain documentation that the weekly tests are being performed.

(b) Each operator of a business that offers ear piercing services performed with an ear piercing gun shall require the individuals who perform the ear piercing services to disinfect and sterilize the ear piercing gun by using chemical solutions that meet the disinfection and sterilization requirements established in rules adopted under this act.

SECTION 10.

(a) Not later than ninety (90) days after the effective date of this act, the commissioner of public health shall promulgate rules in accordance with Tennessee Code Annotated, Title 4, Chapter 5, as necessary for the implementation and enforcement of this act. The rules shall include all of the following:

(1) Safety and sanitation standards and procedures to be followed to prevent the transmission of infectious diseases during the performance of body piercing procedures, including a requirement that the operator provide printed instructions on the care of the skin to each client after body piercing and requiring a copy of such instructions to be posted in a conspicuous place in the body piercing studio.

(2) Standards and procedures to be followed for appropriate disinfection and sterilization of all invasive equipment or parts of equipment used in body piercing procedures, and ear piercing procedures performed with an ear piercing gun; and

(3) Procedures for suspending and revoking approvals.

(b) The rules adopted under subdivision (a)(1) of this section shall establish universal blood and body fluid precautions to be used by any individual who performs body piercing procedures.

(c) The rules adopted under subsection (a)(2) of this section may include standards and procedures to be followed by a business that offers body piercing services to ensure that the individuals who perform body piercing procedures for the business are adequately trained to perform the procedures properly.

SECTION 11.

(a) No person shall operate a business offering tattoo or body piercing services without first obtaining approval of the county health department in the county in which the business will operate.

(b) Persons seeking approval to operate a business offering body piercing services shall apply to the county health department in which the business is located, on forms the board shall prescribe and provide. The applicant shall submit all applicable fees and information the county health department determines is necessary to process the application. Information requested by the county health department as part of the application process shall include, but not be limited to, the following:

(1) If the operator is an individual, that operator's name, address, telephone number, business address, business telephone number, and occupation. If the operator is an association, corporation, or partnership, the address and telephone number of the entity and the name of every person who has an ownership interest of five percent (5%) or more in the entity;

(2) If the operator does not own the place of business, or if the operator owns only part of the place of business, the name of each person who has an ownership interest of five percent (5%) or more in the business;

(3) A statement of attestation that the operator intends to comply with all requirements established by this act;

(4) Plans and specifications of the place of business to clearly show that applicable provisions of the rules in this chapter can be met and shall include the following:

(A) The total area to be used for the business;

(B) Entrances and exits;

(C) Number, location and types of plumbing fixtures, including all water supply facilities;

(D) A lighting plan;

(E) A floor plan showing the general layout of fixtures and equipment; and

(F) A listing of all equipment to be used;

(5) Evidence that the operator shall perform the following functions:

(A) The operator shall maintain procedures ensuring that all persons performing body piercing or tattooing services on the business premises have received appropriate training in body piercing;

(B) The operator shall maintain procedures ensuring that all persons performing body piercing services for the business shall have received training, as evidenced by records of completion, courses or seminars provided by licensed physicians, registered nurses, organizations such as the American Red Cross, accredited learning institutions, appropriate governmental entities, or other authorities recognized by the county health department as being qualified to provide training in the following:

(i) First aid;

(ii) Safety and sanitation requirements for preventing transmission of infectious diseases;

(iii) Universal precautions against bloodborne pathogens;

(iv) Appropriate piercing aftercare;

(C) The operator shall maintain written records of equipment utilized by the business, including manufacturer and model numbers;

(D) The operator shall maintain procedures ensuring that persons performing body piercing services on the premises of the business shall

disinfect and sterilize all non-disposable equipment or parts of equipment used in performing procedures;

(E) The operator shall maintain procedures ensuring the performance of weekly biological monitoring tests of the business's heat sterilization devices:

(i) Maintenance of a log of all tests performed, the date of each test and the name of the person or independent testing entity performing the test; and

(ii) Procedures for remedial action on the part of the operator to assure compliance with all sterilization requirements in the event a test indicates a heat sterilization device is not functioning properly.

The operator shall maintain records of each test performed for at least two (2) years.

(F) The operator shall maintain procedures ensuring the general health and safety of all individuals employed by the business.

(6) The operator shall identify any previous, current or similar approvals held by the operator for piercing services.

(7) The operator shall provide evidence and documentation of all applicable fee payments, inspections and approvals; and

(8) The operator shall make inquiry with the client as to whether the client is under the influence of drugs or alcohol to which the client must attest before any body piercing may begin.

(c) A county health department shall conduct at least one (1) inspection of a business prior to approving it . The board may conduct additional inspections as necessary for the approval process.

(d) Approval remains valid for one (1) year.

(e) The operator shall give the county health department access to the business premises and to all records relevant to an inspection. All records, entered in ink or other permanent form, shall be made available to the local health department upon request, at a reasonable time, for examination.

(f) Approval is not transferable. Any permanent change in address or change in ownership shall require the operator to apply for approval, with payment of all fees established by the county health department.

(g) The county health department in the jurisdiction in which a body piercing business shall operate may approve such business for the purposes of operating on a time-limited basis, in conjunction with a specific event. Time-limited body piercing and tattooing establishments may be permitted at such events as fairs, and other time-limited gatherings of people, if the county health department determines that the operator can substantially meet provisions contained in these rules. For the purpose of this approval, the following shall occur:

(1) A business having a current approval from a county health department shall apply for time-limited approval from the county health department in the jurisdiction in which a specific, time-limited event shall take place. The applicable county health department may accept the business's current approval as evidence of substantial compliance with provisions contained in these rules. While accepting the approval of another county health department, the county health department in the jurisdiction in which a body piercing business seeks time-limited approval shall conduct an inspection of the site in which the operator intends to conduct the time-limited business to ensure that local standards will be met.

(2) Businesses which do not have current approval from a county health department shall apply for time-limited approval from the county health department in the jurisdiction in which a specific, time-limited event shall take place. The applicant shall submit all applicable fees and information the county health department determines necessary to process the application.

(A) Information requested shall assure the county health department being requested for time-limited approval that the business is capable of meeting the provisions of these rules.

(B) In addition to reviewing information submitted by the business, the county health department in the jurisdiction in which body piercing business seeks time-limited approval shall conduct an inspection of the site in which the operator intends to conduct the time-limited business to ensure that local standards will be met. The county health department shall take into consideration the use of resources utilized to promulgate provisions of this paragraph when determining an appropriate fee.

(h) The approval of a business may be renewed annually by a county health department in the jurisdiction in which the business will operate. Renewal will occur following an annual inspection, assurance that all conditions set forth by this act, the rules of this act have continued to be met, and the payment of fees set by the county health department have been received.

SECTION 12. A violation of this act is a Class C misdemeanor.

SECTION 13. This act shall take effect on becoming a law for rulemaking purposes and on January 1, 2002, for all other purposes, the public welfare requiring it.